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DOCKET NO.: C1039.70083US00

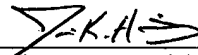
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Krieg et al.
Serial No.: 10/690,495
Confirmation No.: 8657
Filed: October 21, 2003
For: IMMUNOMODULATORY OLIGONUCLEOTIDES

Examiner: Nina Archie
Art Unit: 1645

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

The undersigned hereby certifies that this document is being placed in the United States mail with first-class postage attached, addressed to MAIL STOP AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the 5th day of February, 2007.


Jamieson K. Herrick

MAIL STOP AMENDMENT

Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:


Transmitted herewith are the following documents:

- Information Disclosure Statement
- PTO Form 1449 with cited references
- Return Receipt Postcard

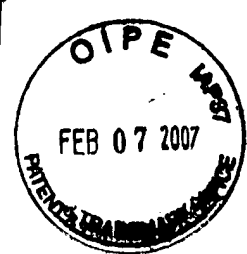
If the enclosed papers are considered incomplete, the Mail Room and/or the Application Branch is respectfully requested to contact the undersigned at (617) 646-8000, Boston, Massachusetts.

A check is not enclosed. If a fee is required, the Commissioner is hereby authorized to charge Deposit Account No. 23/2825. A duplicate of this sheet is enclosed.

Respectfully submitted,

By: 
Helen C. Lockhart, Ph.D., Reg. No.: 39,248
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, Massachusetts 02210-2206
Telephone: (617) 646-8000

Docket No.: C1039.70083US00
Date: February 5, 2007
xNDDx



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Jamieson K. Herrick

MAIL STOP AMENDMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**STATEMENT FILED PURSUANT TO THE DUTY OF
DISCLOSURE UNDER 37 CFR §§1.56, 1.97 AND 1.98**

Sir:

Pursuant to the duty of disclosure under 37 C.F.R. §§1.56, 1.97 and 1.98, the Applicant requests consideration of this Information Disclosure Statement.

PART I: Compliance with 37 C.F.R. §1.97

This Information Disclosure Statement has been filed before the mailing of a first Office action on the merits in the above-identified case.

No fee or certification is required.

PART II: Information Cited

The Applicant hereby makes of record in the above-identified application the information listed on the attached form PTO-1449 (modified PTO/SB/08). The order of presentation of the references should not be construed as an indication of the importance of the references.

The Applicant hereby makes the following additional information of record in the above-identified application.

The Applicant would like to bring to the Examiner's attention the following co-pending applications that may contain subject matter related to this application:

<u>Serial No.</u>	<u>Filing Date</u>	<u>Inventor(s)</u>	<u>Docket No.</u>
11/503,377	08-11-2006	Krieg et al.	*C1039.70061US01
11/507,079	08-18-2006	Krieg et al.	*C1039.70035US04
11/526,197	09-22-2006	Krieg et al.	*C1039.70048US23
11/526,896	09-22-2006	Bratzler et al.	*C1037.70013US03
11/542,845	10-04-2006	Krieg et al.	*C1037.70048US01
11/543,314	10-04-2006	Lipford et al.	*C1041.70036US02
11/595,823	11-10-2006	Wagner et al.	*C1041.70035US01
11/598,207	11-10-2006	Krieg et al.	*C1039.70048US24
11/603,978	11-22-2006	Forsbach et al.	*C1041.70053US02
11/629,106	12-08-2006	Lipford et al.	*C1041.70027US01
11/645,106	12-22-2006	Krieg et al.	*C1039.70083US17

*A copy of this reference is not provided as the Office has waived the requirement under 37 C.F.R. 1.98(a)(2)(iii) for submitting a copy of a cited U.S. patent application if it is scanned to the Image File Wrapper system and is available on Private PAIR.

The Applicant would like to bring to the Examiner's attention the following other information, whose relevance is discussed in Part III below:

PART III: Explanation of Non-English Language References and Remarks Concerning Other Information Cited

The following are remarks concerning the other information cited:

The instant patent application derives priority from US 6,194,388 B1, which is a priority application for US 6,207,646 B1, which was involved in Interference No. 105171. In view of the priority, Applicants have included on the attached 1449 a listing of all of the motions filed, the judgment rendered by the Board of Patent Appeals and Interferences, appeal briefs, and appeal decision, which considered the 35 U.S.C. §135(b)(1) motion dispositive. Copies of these documents are enclosed for the Examiner's review. If the Examiner would like any additional information on this subject, she is encouraged to contact Applicant's representative at the number listed below.

PART IV: Remarks

Documents cited anywhere in the Information Disclosure Statement are enclosed unless otherwise indicated. It is respectfully requested that:

1. The Examiner consider completely the cited information, along with any other information, in reaching a determination concerning the patentability of the present claims;
2. The enclosed form PTO-1449 (modified PTO/SB/08) be signed by the Examiner to evidence that the cited information has been fully considered by the Patent and Trademark Office during the examination of this application;
3. The citations for the information be printed on any patent which issues from this application.

By submitting this Information Disclosure Statement, the Applicant makes no representation that a search has been performed, of the extent of any search performed, or that more relevant information does not exist.

By submitting this Information Disclosure Statement, the Applicant makes no representation that the information cited in the Statement is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56(b).

By submitting this Information Disclosure Statement, the Applicant makes no representation that the information cited in the Statement is, or is considered to be, in fact, prior art as defined by 35 U.S.C. §102.

Serial No.: 10/690,495
Conf. No.: 8657


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Art Unit: 1645

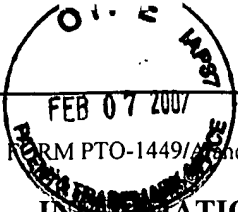
Notwithstanding any statements by the Applicant, the Examiner is urged to form his or her own conclusion regarding the relevance of the cited information.

An early and favorable action is hereby requested.

Respectfully submitted,

By: 
Helen C. Lockhart, Ph.D., Reg. No. 39,248
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, Massachusetts 02210-2206
Telephone: (617) 646-8000

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**INFORMATION DISCLOSURE
STATEMENT BY APPLICANT**

APPLICATION NO.: 10/690,495	ATTY. DOCKET NO.: C1039.70083US00
FILING DATE: October 21, 2003	CONFIRMATION NO.: 8657
APPLICANT: Krieg et al.	
GROUP ART UNIT: 1645	EXAMINER: Nina Archie

Sheet

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of

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U.S. PATENT DOCUMENTS

Examiner's Initials #	Cite No.	U.S. Patent Document		Name of Patentee or Applicant of Cited Document	Date of Publication or Issue of Cited Document MM-DD-YYYY
		Number	Kind Code		
		4,452,775		Kent	06-05-1984
		4,981,684		MacKenzie et al.	01-01-1991
		5,075,109		Tice et al.	12-24-1991
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		5,543,152		Webb et al.	08-06-1996
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		6,110,745		Zhang et al.	08-29-2000
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		6,207,819	B1	Manoharan et al.	03-27-2001
		6,348,312		Peyman et al.	02-19-2002
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		6,544,518	B1	Friede et al.	04-08-2003
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		6,605,708		Habus et al.	08-12-2003
		6,610,308		Haensler	08-26-2003
		6,610,661	B1	Carson et al.	08-26-2003
		6,630,455	B1	Mitchell	10-07-2003

EXAMINER:	DATE CONSIDERED:
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EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to Applicant.

FORM PTO-1449/A and B (modified PTO/SB/08) INFORMATION DISCLOSURE STATEMENT BY APPLICANT				APPLICATION NO.: 10/690,495		ATTY. DOCKET NO.: C1039.70083US00	
				FILING DATE: October 21, 2003		CONFIRMATION NO.: 8657	
				APPLICANT: Krieg et al.			
				GROUP ART UNIT: 1645		EXAMINER: Nina Archie	
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		6,815,429	B2	Agrawal	11-09-2004
		6,849,725	B2	Junghans et al.	02-01-2005
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		2002-0137714	A1	Kandamilla et al.	09-26-2002
		2002-0192184	A1	Carpentier et al.	12-19-2002
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		2005-0031638	A1	Dalemans et al.	02-10-2005
		2005-0064401	A1	Olek et al.	03-24-2005

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		2005-0079152	A1	Bot et al.	04-14-2005
		2005-0130918	A1	Agrawal et al.	06-16-2005
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		2005-0249794	A1	Semple et al.	11-10-2005
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		2005-0277604	A1	Krieg et al.	12-15-2005
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		2006-0003955	A1	Krieg et al.	01-05-2006
		2006-0003962	A1	Ahluwalia et al.	01-05-2006
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		2006-0019909	A1	Agrawal et al.	01-26-2006
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		2006-0019923	A1	Davis et al.	01-26-2006
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		2006-0089326	A1	Krieg et al.	04-27-2006
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		2006-0140875	A1	Krieg et al.	06-29-2006
		2006-0154890	A1	Bratzler et al.	07-13-2006
		2006-0172966	A1	Lipford et al.	08-03-2006
		2006-0188913	A1	Krieg et al.	08-24-2006
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		2006-0211639	A1	Bratzler et al.	09-21-2006
		2006-0211641	A1	Agrawal et al.	09-21-2006
		2006-0211644	A1	Krieg et al.	09-21-2006
		2006-0223769	A1	Dow et al.	10-05-2006
		2006-0229271	A1	Krieg et al.	10-12-2006
		2006-0241076	A1	Uhlmann et al.	10-26-2006
		2006-0246035	A1	Ahluwalia et al.	11-02-2006
		2006-0251623	A1	Bachmann et al.	11-09-2006
		2006-0251677	A1	Bachmann et al.	11-09-2006
		2006-0286070	A1	Hartmann et al.	12-21-2006

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FOREIGN PATENT DOCUMENTS

Examiner's Initials #	Cite No.	Foreign Patent Document			Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY	Translation (Y/N)
		Office/ Country	Number	Kind Code			
		EP	0 092 574	A1	Molecular Biosystems, Inc.	04-28-1983	
		EP	1 393 745	A1	Hybridon, Inc.	03-03-2004	
		WO	90/14822	A1	Northwestern University	12-13-1990	
		WO	95/24929	A2	Brown University Research Foundation	09-21-1995	
		WO	96/40162	A1	East Carolina University	12-19-1996	
		WO	97/03702	A1	Brown University Research Foundation	02-06-1997	
		WO	97/30731	A3	The Immune Response Corporation	08-28-1997	
		WO	98/11211	A2	Hybridon et al.	03-19-1998	
		WO	98/29557	A1	Biovector Therapeutics	07-09-1998	Y-Abstract
		WO	98/49288	A1	Hybridon Inc.	11-05-1998	
		WO	98/51278	A2	INEX Pharmaceuticals Corp.	11-19-1998	
		WO	98/52962	A1	Merck and Co., Inc.	11-26-1998	
		WO	98/55495	A2	Dynavax Technologies Corporation	12-10-1998	
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		WO	99/33493	A1	INEX Pharmaceuticals Corporation	07-08-1999	
		WO	99/43350	A1	IOMAI Corporation	09-02-1999	
		WO	99/52549	A1	SmithKline Beecham Biologicals S.A.	10-29-1999	
		WO	99/55743	A1	INEX Pharmaceuticals Corporation	11-04-1999	
		WO	99/58118	A2	CPG Immunopharmaceuticals GMBH	11-18-1999	
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		WO	00/03683	A2	INEX Pharmaceuticals Corporation	01-27-2000	
		WO	00/15256	A2	Pasteur Merieux Serums Et Vaccins [FR]	03-23-2000	Y-Abstract
		WO	00/45849	A2	Genzyme Corporation	08-10-2000	
		WO	00/46365	A1	Virginia Commonwealth University	08-10-2000	
		WO	00/54803	A2	Panacea Pharmaceuticals, LLC.	09-21-2000	
		WO	00/61151	A2	The Government of the United States of America	10-19-2000	
		WO	00/67787	A2	The Immune Response Corporation	11-16-2000	
		WO	00/75304	A1	Aventis Pasteur [FR]	12-14-2000	Y-Abstract
		WO	01/22972	A2	Coley Pharmaceuticals, GmbH	04-05-2001	
		WO	01/35991	A2	Dynavax Technologies Corporation	05-25-2001	

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				GROUP ART UNIT: 1645		EXAMINER: Nina Archie	
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		WO	01/45750	A1	Regents of the University of California	06-28-2001	
		WO	01/68143	A2	Dynavax Technologies Corporation	09-20-2001	
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		WO	01/83503	A2	Hybridon, Inc	11-08-2001	
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		WO	2006/015872	A1	Mologen Ag	02-16-2006	

OTHER ART — NON PATENT LITERATURE DOCUMENTS

Examiner's Initials #	Cite No	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	Translation (Y/N)
		Press Release, Hybridon, Inc. Hybridon shows immunomodulatory activity of synthetic oligonucleotides. Cambridge, MA. May 7, 2001.	

EXAMINER:	DATE CONSIDERED:
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				GROUP ART UNIT: 1645		EXAMINER: Nina Archie	
Sheet	6	of	20				

	AGRAWAL et al., Novel immunomodulatory oligonucleotides prevent development of allergic airway inflammation and airway hyperresponsiveness in asthma. <i>Int Immunopharmacol.</i> 2004 Jan;4(1):127-38.	
	AGRAWAL et al., Pharmacokinetics, biodistribution, and stability of oligodeoxynucleotide phosphorothioates in mice. <i>Proc Natl Acad Sci U S A.</i> 1991 Sep 1;88(17):7595-9.	
	AGRAWAL et al., Medicinal chemistry and therapeutic potential of CpG DNA. <i>Trends Mol Med.</i> 2002 Mar;8(3):114-21.	
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